

ELIZABETH HAYS
 VS.
 CHARLOTTE HENRY ET AL. } DECEMBER TERM, 1848.

[WIFE'S RIGHT TO PERSONALTY—FRAUDULENT CONVEYANCES.]

It is not in the power of a husband in this state, by will, to deprive his widow of that portion of his personal estate, to which she is entitled by law.

Yet, there can be no doubt of his right to dispose, absolutely, of this description of property during his life, independently of the concurrence and exonerated from any claim of the wife ; provided, the transaction be not colorable merely, and be unattended with circumstances, indicative of fraud upon the rights of the wife.

One of the badges of fraud in such cases, is the retention of the possession of the property by the husband, after the transfer of the title, or keeping the deed in his hands after its execution.

It being proved, that the husband, with a design to deprive his widow of her share of his personal estate, executed the conveyances in question, but did not part with the possession, but lived upon and enjoyed the property until his death—the deeds were set aside as frauds upon the rights of the wife.

[This case was removed from the equity side of Baltimore County Court. The bill filed by the widow of Simeon Hays, stated, that he died in the year 1847 ; that he had for upwards of twenty years previous cohabited with Charlotte Henry, by whom he had two children ; that he also had two children by the complainant ; that on the 2d of April, 1844, having converted certain of his estate into money, the said Hays bought with it a house and lot in Baltimore, subject to a ground rent, and caused it to be conveyed to said Charlotte, who, on the 9th of the same month conveyed it to him, in trust, for her use during her life, with remainder to their two children, and, in case said children died without issue, to the two children of the complainant ; that both deeds were recorded on the same day ; that Hays had always treated the property as his own ; and, that the conveyances were made solely for the purpose of preventing any of his property from going to his wife, the complainant, at his death. It was further stated, that letters of administration on his estate had been granted to the complainant, and, that if the property in question, were decreed to be a